



Atty. Docket No.: 18433/2022

1636/6  
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Gruber et al.  
Serial No.: 09/870,375  
Filed: May 30, 2001  
Titled: Chimeric Plant Promoters and Plants  
Containing the Same

Examiner: Lamberston, D.A.  
Group Art Unit: 1636  
Conf. No.: 7238

**CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8a**

I hereby certify that this correspondence (and any paper or fee referred to as being enclosed) is being deposited with the United States Post Office as First Class Mail on the date indicated below in an envelope addressed to Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

Kathleen M. Williams

Name of Person Faxing

Signature of Person Mailing Paper

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

**TRANSMITTAL LETTER**

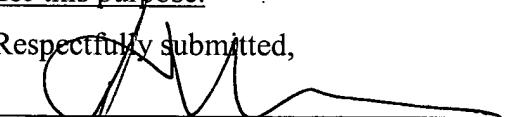
Enclosed for filing the above-identified patent application, please find the following documents:

1. Response to Restriction Requirement;
2. Petition for Extension of Time;
3. Check in the amount of \$210.00; and
4. Return Post Card.

The Commissioner for Patents is hereby authorized to charge any additional fees or credit any overpayment in the total fees to Deposit Account No. 16-0085, Reference 18433/2022. A duplicate of this transmittal letter is enclosed for this purpose.

Date: December 31, 2003

Respectfully submitted,

  
Name: Kathleen M. Williams  
Registration No.: 34,380  
Customer No.: 29933  
Palmer & Dodge LLP  
111 Huntington Avenue  
Boston, MA 02199-7613  
Tel: 617-239-0100



Atty. Docket No.: 18433/2022 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

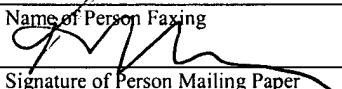
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**RESPONSE TO RESTRICTION REQUIREMENT**

Dear Sir:

In response to the Restriction Requirement dated October 2, 2003, Applicants elect Group 22, Claims 2, 3, 4, 5, 8-30, 32, 34-36 and 46-61, relating to promoter MPr1217, for prosecution on the merits, with traverse.

Applicants respectfully request that the Examiner rejoin groups 4 and 21 to the elected group 22 for the following reasons.

The Examiner asserts that the sequences are considered unrelated since each sequence claimed is structurally and functionally independent and each of the sequences has a distinct nucleotide sequence. The Examiner also asserts that a search of more than one of the sequences claimed would present an undue burden on the Patent and Trademark Office.

Applicants respectfully submit that the promoters MPr1128 (Group 4), MPr1216 (Group 21) and MPr1217 (Group 22) have at least one copy of a "G" box and an identical enhancer element. In view of the sequence similarities between these three promoters, a search of these three sequences would therefore not pose an undue burden on the Examiner. A search of the sequence and functional elements of any one of these promoters would identify all three of the

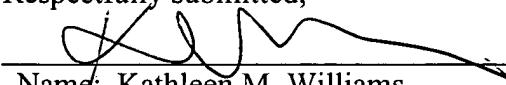
promoters of groups 4, 21 and 22. Applicants also note that the sequences of groups 4, 21 and 22 are classified in the same class and subclass.

In view of the above, Applicants respectfully request rejoinder of groups 4 and 21 to elected group 22.

This Response is being filed concurrently with a Petition for Extension of time and requisite fees are being submitted herewith. However, should any additional fees be required to ensure consideration of this response, the Commissioner is authorized to charge Deposit Account 16-0085, Reference No. 18433/2022.

Date: December 31, 2003

Respectfully submitted,

  
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